

August 19, 2009

TO: ALL STATE AGENCIES, SCHOOL DISTRICTS, MUNICIPALITIES, VOLUNTEER  
FIRE COMPANIES AND POLITICAL SUBDIVISIONS

FROM: ROXANN M. PARKER  
STATE CONTRACT PROCUREMENT OFFICER II  
302-857-4555

SUBJECT: **AWARD NOTICE**  
**CONTRACT NO. GSS09020**  
PAINTS, SPECIALTY PAINTS, SUPPLIES AND LADDERS

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## **KEY CONTRACT INFORMATION**

### **1. MANDATORY USE CONTRACT:**

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**REF: Title 29, Chapter 6911(d) Delaware Code.** Every state department and agency within the Executive Branch and Judicial Branch of the state government shall procure all material, equipment and nonprofessional services through the statewide contracts administered by Government Support Services, Office of Management and Budget. Delaware State University, Delaware Technical and Community College, the operations funded by Public School Districts, Delaware Transit Corporation, Department of Elections, the Legislative Branch and the Board of Pension Trustees and their consultants are specifically exempted from the requirements of this subsection.

### **2. CONTRACT PERIOD:**

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Each contractor's contract shall be valid for a two (2) year period from September 1, 2009 through August 31, 2011. Each contract may be renewed for three (3) additional one (1) year periods through negotiation between the contractor and Government Support Services. Negotiation may be initiated no later than ninety (90) days prior to the termination of the current agreement.

### **3. VENDOR:**

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The Sherwin Williams Co.  
Incl. Business Units Duron Paints and MAB Paints  
101 Prospect Ave.  
Cleveland, OH 44115  
EI# 34-0526850  
Contact: Mr. Craig C. Mackay  
Phone: (302) 730-9130  
Fax: (302) 730-9135  
Email: [Craig.Mackay@sherwin.com](mailto:Craig.Mackay@sherwin.com)

**Store Locations are listed on the Award Notice Pricing Sheet, Delivery Tab.**

### **4. SHIPPING TERMS:**

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F.O.B. destination.

### **5. DELIVERY AND PICKUP:**

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Ship Stock: 2 day ARO  
Ship Specialty: 2 days ARO  
Minimum Order: None

### **6. PRICING:**

Prices will remain firm for the term of the contract.  
**Pricing can be found on the Award Notice Pricing Sheet.**

**ADDITIONAL TERMS AND CONDITIONS**

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**7. BILLING:**

The successful vendor is required to **"Bill as Shipped" to the respective ordering agency(s).** Ordering agencies shall provide at a minimum the contract number, ship to and bill to address, contract name and phone number.

**8. PAYMENT:**

The agencies or school districts involved will authorize and process for payment each invoice within thirty (30) days after the date of receipt. The contractor or vendor must accept full payment by procurement (credit) card and/or conventional check and/or other electronic means at the State's option, without imposing any additional fees, costs or conditions.

**9. PRODUCT SUBSTITUTION:**

All items delivered during the life of the contract shall be of the same type and manufacture as specified unless specific approval is given by Government Support Services to do otherwise. Substitutions may require the submission of written specifications and product evaluation prior to any approvals being granted.

**10. ORDERING PROCEDURE:**

Successful contractors are required to have either a local telephone number within the (302) area code, a toll free (800) number, or agree to accept collect calls. Each agency is responsible for placing their orders and may be accomplished by written purchase order, telephone, fax or computer on-line systems. The contractor or vendor must accept full payment by procurement (credit) card and/or conventional check and/or other electronic means at the State's option, without imposing any additional fees, costs or conditions.

**11. HOLD HARMLESS:**

The contractor agrees that it shall indemnify and hold the State of Delaware and all its agencies harmless from and against any and all claims for injury, loss of life, or damage to or loss of use of property caused or alleged to be caused, by acts or omissions of the contractor, its employees, and invitees on or about the premises and which arise out of the contractor's performance, or failure to perform as specified in the Agreement.

## **12. NON-PERFORMANCE:**

In the event the contractor does not fulfill its obligations under the terms and conditions of this contract, the ordering agency may purchase equivalent product on the open market. Any difference in cost between the contract prices herein and the price of open market product shall be the responsibility of the contractor. Under no circumstances shall monies be due the contractor in the event open market products can be obtained below contract cost. Any monies charged to the contractor may be deducted from an open invoice.

## **13. FORCE MAJEURE:**

Neither the contractor nor the ordering agency shall be held liable for non-performance under the terms and conditions of this contract due, but not limited to, government restriction, strike, flood, fire, or unforeseen catastrophe beyond either party's control. Each party shall notify the other in writing of any situation that may prevent performance under the terms and conditions of this contract.

## **14. AGENCY'S RESPONSIBILITIES:**

The Agency shall:

- a. Examine and review in detail all letters, reports, drawings and other documents presented by the Contractor to the Agency and render to the Contractor in writing, findings and decisions pertaining thereto within a reasonable time so as not to delay the services of Contractor.
- b. Give prompt written notice to the Contractor whenever the Agency observes or otherwise becomes aware of any development that affects the scope or timing of the Contractor's services.

## **15. REQUIREMENTS:**

All paints bid and supplied under this Contract shall be **premium, top of the line** for the paint description and will carry a label to identify it as such. Specially prepared paint or labels will not be accepted.

All containers received dented or damaged shall be rejected and promptly replaced.

Manufacturers warranty(s) shall prevail only to the extent that they do not otherwise conflict with other contract provisions.

Paints for this Contract shall contain no lead or mercury products unless specifications allow for such deviations.

A current paint brush catalog and ladder catalog must be provided by the vendor. The vendor shall supply color charts for their paints to all agencies, upon request, at no charge.

The vendor shall not be permitted to substitute any paint covered by this Contract without prior written approval from Government Support Services. The manufacturer's standard printed label shall be affixed to each container. Manufacturer, trade name or brand, catalog number, color and complete directions for use shall be printed on the label. The trade name or brand and catalog number must be the same product proposed. Paint containers shall be new and of industry standards for plastic or metal construction.

## 15. **REQUIREMENTS (continued)**

All paints under this contract shall be manufactured and labeled to comply with all latest OSHA requirements and Federal Air Quality Control Standards Act. All paints supplied must meet State OTC-VOC regulations as of January 1, 2005.

As required in the Hazardous Chemical Information Act found at <http://decode.delaware.gov/title16/co24/index.shtml>, all vendors supplying any materials that may be defined as hazardous, must provide Material Safety Data Sheets for those products. Any chemical product should be considered hazardous if it has a caution warning on the label relating to a potential physical or health hazard, if it is known to be present in the work place, and if employees may be exposed under normal conditions or in any foreseeable emergency situation. Material Safety Data Sheets must be included with every shipment.

Each line of color or tinted paint under this contract shall have no less than three (3) shades available for purchase. Additionally, standard colors, white-based, mid-tone, deep-based, accent and neutral based colors shall be included in the price

No material supplied under this contract shall have been in stock in excess of one (1) year from the date it was manufactured and shall have a usable shelf life of not less than one (1) year from the date it is supplied to the using agency.

### **ALL PAINT BRUSHES SHALL CONFORM TO THE FOLLOWING REQUIREMENTS AS LISTED IN APPENDIX A, SECTION 3:**

1. – FILAMENTS: Round/Solid/Tapered. See individual specification.
2. – BRISTLES: See each individual specification.
3. – HANDLES: Close grained hardwood enamel varnish or lacquer finish or non-slip resin. Shape of handle indicated on each individual brush specification.
4. – FERRULES: Non-corrosive, rust resistant. Ferrules and nails shall show no rust after 30 days at 100% R variation for 6" WALL BRUSH.
5. – NAILS: 5/16" annual threaded – rust resistant. 4 nails minimum per 1 inch through 3 inch brushes and 6 nails minimum for 4 inch and 6 inch brushes.
6. – HOLD: Epoxy – 3/8" min. NO loose filaments or bristles.
7. – DIVIDERS: Wooded – Angular Sash, Flat Sash, and Enamel Brushes = 1 divider, 3 & 4 inch Wall Brushes = 2 dividers, 6 inch Wall Brush = 4 dividers
8. – TOLERANCES: "Thickness" and "Length Out" =+ or – 1/16"  
"Weight of Filament or Bristle" =+10%

## 15. REQUIREMENTS (continued)

Groups 1 thru 11 shall be domestic brands only. Wooster, Bestt-Liebco, Purdy, Rubberset, Corona or other approved domestic brand.

### Group One

Brushes in this group are of the finest quality for use with latex and oil base paints. These brushes are recommended for painting woodwork, trim, doors and cabinets.

### Group Two

Brushes in this group are of the finest quality for use with latex and oil base paints. These brushes are recommended for painting window sash and trim, small objects and difficult to reach areas.

### Group Three

Brushes in this group are of the finest quality for use with latex and oil base paints. These brushes are recommended for painting walls, floors, shingles, siding, woodwork, trim, furniture, doors and cabinets.

### Group Four thru Nine

Brushes in these groups are of the finest quality with the finest filament materials blended for smooth even paint flow, improved paint pick up, less drag and reduced brush strokes, and easier, more precise cutting in.

### Group Ten – Economy Brushes

Brushes in this group are for use with latex and oil base paints. These brushes are recommended for trim and touch up painting as well as doors, floors and other large flat surfaces.

### Group Eleven – Throw Away Brushes

Brushes in this group are for use with oil base paint. They can also be used in light grease and oil application. These brushes are inexpensive touch up and trim brushes and are intended to be throw aways.

## 16. INSPECTION:

Upon delivery, the material will be inspected, and if found to be defective or if it fails in any way to meet the specifications as indicated in this contract, it may be rejected. All rejected material or shortages will be replaced by the supplier within five (5) business days.

## 17. PICK UP AND SERVICE LOCATIONS:

The vendor must either have a service location in each county or elect to waive minimum requirements in lieu of over the counter locations. However, there must be at least one pick up location in the State. **Store locations are listed on the Delivery tab of the Award Notice Pricing Spreadsheet.**

18. **DELIVERY:**

All in-stock items must be delivered within two (2) working days. Any non-stock items must be delivered within five (5) working days after receipt of original order.

19. **CATALOGS:**

The Vendor will be required to furnish catalogs to agencies, various State departments and schools that will be using this contract. These catalogs must be made available upon request at no cost to the State.

20. **WARRANTY:**

The manufacturer's standard warranty shall apply to materials supplied under resulting contract.

21. **PRODUCT INFORMATION:**

Technical Data Sheets will be required as a part of the contract for Items in Section 1 – Paints, #1 – 23 and Section 2 – Specialty Paint, # 1 – 8.

22. **TRAINED PERSONNEL:**

The vendor must have a highly trained, qualified individual to make recommendations on product specifications and consultation on projects.